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CHARLES ELMORE

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1931.

No. 731.

SAMUEL S. KOENIG, JOHN J. KNEWITZ and WILLIAM L. WARD,
Petitioners-Appellants,

against

EDWARD J. FLYNN, Secretary of State of the State of New York,
Respondent,

and

JAMES A. FARLEY, Chairman of the Democratic State Committee,
Intervenor-Respondent.

MOTION TO ADVANCE.

A. S. GILBERT,
BENJAMIN L. FAIRCHILD,
Counsel for Petitioners.

THE BALLOU PRESS NEW YORK

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SIRS:

PLEASE TAKE NOTICE that the annexed motion to advance will be presented to the Supreme Court of the United States, at Washington, D. C., on March 14th, 1932, at the opening of the Court, or as soon thereafter as counsel can be heard.

Dated, March 1st, 1932.

Yours, &c.,

A. S. GILBERT,
BENJAMIN L. FAIRCHILD,
Counsel for Petitioners.

To:

Hon. JOHN J. BENNETT, Attorney General,
Counsel for Respondent, Flynn.

Hon. JOHN GODFREY SAXE,
Counsel for Respondent, Farley.

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MOTION TO ADVANCE.

The petitioners-appellants move (1) that this cause be advanced for early hearing; and (2) that this cause be heard or considered together with *Smiley* vs. *Holm,* No. 617 on the docket of this Court.

The petitioners pray that this motion be considered with the petition for certiorari in this cause.

In support hereof the petitioners make the following brief statement of the matter involved, and the reasons relied upon for the relief sought.

A speedy determination of this cause and settlement of the questions therein raised is desirous in the public interest for the following reasons: (a) The case presents questions of great public interest involving the construction of Section 4 of Article I of the Constitution of the United States, and of the Act of Congress of June 8th, 1929, and further involves

the question whether the Act of Congress of August 8th, 1911 has expired or is still a subsisting and valid law of the United States, and (b) The questions involved, or some of them, have arisen in four states, namely: New York, Illinois, Minnesota and Missouri. The case in Minnesota is *Smiley* vs. *Holm*, No. 617, October Term 1931.

In the latter case this Court on February 15th, granted a writ of certiorari, and on the joint application of adversary counsel this Court has advanced the cause for argument and directed that it be heard on March 14th, for the reason among others that a primary election will be held in Minnesota on June 20th, 1932, and it is necessary that candidates for nomination to Congress file not later than May 11th, 1932.

In New York State the primary election at which candidates for Representatives in Congress are nominated will be held on the second Tuesday of September, and it will be necessary for designations of candidates for representatives in the Congress of the United States to be filed not later than August 16th.

The above-entitled cause presents the same principal questions as are presented in *Smiley* vs. *Holm*, No. 617 on the docket of this Court, but differs in respect of the following:

(a) The Minnesota Constitution contains a provision directing the subdivision of the State into Congressional Districts by the Legislature of that State; the New York State Constitution contains no such provision and is entirely silent as to the subdivision of the State into Congressional Districts.

(b) In Minnesota the Legislature passed an act which was submitted to the Governor of Minnesota for approval and which was vetoed by him; in New York State the Legislature acted by Concurrent Resolution.

The above-entitled cause was docketed in this Court on the 25th of February last, and notice thereof with a copy of the petition for writ of certiorari, brief in support thereof and transcript of the record was served on adversary counsel on February 26th last. The time of respondents to file their

brief in opposition to the application for writ of certiorari will not expire until March 17th next. Your petitioners have requested respondents through their respective counsel to join in this application, but they have declined to do so.

WHEREFORE your petitioners pray that this cause be advanced for argument and he heard, or considered together with *Smiley* vs. *Holm*, No. 617 on the docket of this Court, set for argument for March 14, 1932, to the end that this Court may have both causes for disposition at the same time, and further to this end, that disposition of this motion and petitioners' motion for a writ of certiorari may be had on or by March 22, 1932 and this cause set for argument on March 24, 1932.

Respectfully submitted,

ABRAHAM S. GILBERT,

BENJAMIN L. FAIRCHILD,

Counsel for Petitioners-Appellants.